

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MARK BROOKS,

Petitioner,

v.

TERRY RUSSELL,

Respondent.

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No. 4:14CV00061 AGF

MEMORANDUM AND ORDER

This matter is before the Court on pro se Petitioner Mark Brooks' request for leave to amend his petition for writ of habeas corpus under 28 U.S.C. § 2254. (Doc. No. 11.) The motion was filed on August 8, 2016, and is unopposed by Respondent. The original § 2254 petition was filed on January 14, 2014, and an amended petition was filed ten days later. In the amended petition, Petitioner challenges his November 18, 2009 state convictions of forcible rape and forcible sodomy. Petitioner received a 20-year sentence on January 13, 2010. In this instant action, he seeks federal habeas relief on the grounds of ineffective assistance of counsel and denial of a fair trial.

Petitioner states in his present request that since he filed his amended petition, he has hired legal counsel and would be able to acquire a copy of the rape kit from the underlying criminal case. He alleges that the original rape kit and "other physical evidence" were intentionally destroyed by the prosecuting attorney prior to his trial.


The Court notes that no counsel has entered an appearance in this case on behalf of Petitioner.

Upon review of the record,

IT IS HEREBY ORDERED that Petitioner's motion to amend his § 2254 petition is **GRANTED** to the extent that Petitioner may file a new amended § 2254 petition **within 30 days** of the date of this Order.

IT IS FURTHER ORDERED if a new amended petition is filed, Respondent shall have **14 days thereafter** to file a response.

Dated this 18th day of November, 2016.



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE